

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KAO YIAN SAECHAO,

Petitioner,

v.

ICE FIELD OFFICE DIRECTOR,

Respondent.

Case No. C24-1329-RSM-MLP

REPORT AND RECOMMENDATION

This is a federal habeas action filed under 28 U.S.C. § 2241. Petitioner Kao Yian Saechao presented his federal habeas petition to the Court for filing on August 22, 2024, while being detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Northwest ICE Processing Center in Tacoma, Washington. (Dkt. # 1-1.) Petitioner requested in his petition that he be released from detention or afforded a bond hearing. (*Id.* at 2.) Petitioner submitted with his petition an application to proceed with this action without prepaying fees or costs, *i.e., in forma pauperis*, but the application was submitted on a form designated for use in the Western District of Louisiana. (*See* dkt. # 1.) Thus, on August 23, 2024, the Clerk sent Petitioner a letter explaining that he had submitted his application to proceed *in forma pauperis* on the incorrect form and advising that this deficiency would need to be corrected not later than September 23, 2024, or this action would be subject to dismissal. (*See* dkt. # 2.)

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1 On September 4, 2024, the Government filed a motion to dismiss this action. (Dkt. # 4.)
2 The Government notes in its motion that ICE released Petitioner from custody on an order of
3 supervision on August 30, 2024, and argues that this case is therefore moot as Petitioner is no
4 longer in ICE custody. (*See id.*) Though the Government's argument is well taken, its motion
5 was premature and unnecessary. Petitioner did not file a corrected *in forma pauperis* application
6 prior to his release and, thus, his federal habeas petition was never technically filed and is not
7 now properly before the Court. Given Petitioner's failure to address the deficiency in his *in*
8 *forma pauperis* application, or to pay the requisite \$5 filing fee, this Court recommends that the
9 instant action be dismissed without prejudice for failure to satisfy the filing fee requirement, and
10 that the Government's motion to dismiss be stricken as moot. A proposed Order accompanies
11 this Report and Recommendation.

12 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
13 served upon all parties to this suit not later than **fourteen (14) days** from the date on which this
14 Report and Recommendation is signed. Failure to file objections within the specified time may
15 affect your right to appeal. Objections should be noted for consideration on the District Judge's
16 motions calendar **fourteen (14) days** from the date they are filed. Responses to objections may
17 be filed by **the day before the noting date**. If no timely objections are filed, the matter will be
18 ready for consideration by the District Judge on **November 8, 2024**.

19 DATED this 18th day of October, 2024.

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22 MICHELLE L. PETERSON
23 United States Magistrate Judge